



May 4, 2001

Ms. Jill K. Bramlett  
Nicholson, Jackson, Dillard, Hagar & Smith, L.L.P.  
City of Allen  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR2001-1821

Dear Ms. Bramlett:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 146842.

The City of Allen Police Department (the "department"), which you represent, received a request for nine categories of information relating to traffic citation #15647. You indicate that the department does not have information responsive to some of these categories. You claim that the responsive manufacture's name, model, and serial numbers of requested equipment, as well as the arresting officer's notes, and items listed by the requestor in his request for this officer's "service record," including a letter of discipline, are excepted from disclosure under section 552.108 of the Government Code. The requestor has also submitted comment. *See* Gov't Code § 552.304. We have considered the exception you claim and reviewed the submitted comments and information.

In pertinent part section 552.108 of the Government Code provides:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

...

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Section 552.108(a)(1) excepts information that relates to a pending or ongoing investigation or prosecution. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978). You relate that this information relates to a pending criminal case. We conclude therefore, that responsive information is excepted from disclosure by section 552.108(a)(1) of the Government Code.

Note, however, that "basic information" is not excepted by section 552.108. Gov't Code 552.108(c). We believe such basic information refers to the "front page" information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. --Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). Open Records Decision No. 216 (1978). In Open Records Decision No. 127 (1976) this office summarized the types of information considered to be basic information. This information includes a detailed description of the offense, time and location of the crime, identity of persons arrested, identity of the complainant and identity of the investigating officers. Except for basic information, the department may withhold the submitted information from disclosure.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

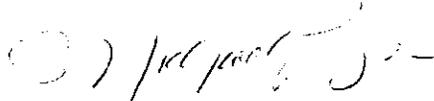
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael J. Burns  
Assistant Attorney General  
Open Records Division

MJB/rr

Ref: ID# 146842.

Encl.: Submitted documents

cc: Mr. Charles E. Schilling  
812 Amber Court  
Allen, Texas 75002  
(w/o enclosures)